

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Emergency Rule LSA Document #08-____(E)

DIGEST

Temporarily adds provisions concerning the conduct of type II gaming activities by taverns, manufacturers, and distributors licensed by the Alcohol and Tobacco Commission. Effective July 1, 2008.

SECTION 1. As used in this rule, the following definitions apply:

- (a) "Carry-over jackpot" means cash or prizes related to daily winner-take-all or raffle drawings lasting for more than 24 hours.**
- (b) "Commission" means the alcohol and tobacco commission created by IC 7.1-2-1-1.**
- (c) "Deal" has the meaning set forth in IC 4-36-2-3.**
- (d) "Distributor" has the meaning set forth in IC 4-36-2-5.**
- (e) "Flare" has the meaning set forth in IC 4-36-2-7.**
- (f) "Form number" has the meaning set forth in IC 4-36-2-8.**
- (g) "Gaming manager" means a person responsible for operating and controlling the type II gambling operation with the authority to make decisions regarding the type II gaming activities.**
- (h) "House rule" means requirements established by the retailer for the purposes of conducting a type II gambling operation.**
- (i) "Jackpot" means cash or prizes related to winner-take-all and raffle drawings.**
- (j) "Licensed premises" has the meaning set forth in IC 7.1-1-3-20.**
- (k) "Licensed supply" means any supplies, devices, or equipment critical to the conduct of type II gambling operation and approved by the commission.**
- (l) "Licensee" has the meaning set forth in IC 4-36-2-11.**
- (m) "Manufacturer" has the meaning set forth in IC 4-36-2-12.**
- (n) "Person" has the meaning set forth in IC 4-36-2-13.**
- (o) "Player" means a person who purchases a type II gambling game for play.**
- (p) "Pull tab" has the meaning set forth in IC 4-36-2-14.**
- (q) "Punchboard" has the meaning set forth in IC 4-36-2-15.**
- (r) "Raffle" has the meaning set forth in IC 4-36-2-16.**
- (s) "Retailer" has the meaning set forth in IC 4-36-2-17.**
- (t) "Seal card" means a board or placard used in conjunction with a deal of pull tabs that contains a seal or seals which, when removed or opened, reveal pre-designated winning numbers, letters or symbols.**
- (u) "Tavern" has the meaning set forth in IC 4-36-2-18.**
- (v) "Tip board" has the meaning set forth in IC 4-36-2-19.**
- (w) "Type II endorsement" means a license to conduct a type II gambling operation at the retailer's tavern.**
- (x) "Type II gambling game" has the meaning set forth in IC 4-36-2-20.**
- (y) "Type II gambling operation" has the meaning set forth in IC 4-36-2-21.**

(z) “Winner protection” means a unique symbol or printed security device, such as a line through the winning combination, specific number keyed to a particular winning pull tab, or the name of the symbol or some of the symbol colors changed for a winning pull tab, or other similar protections placed in the winning windows of prize winning pull tabs.

SECTION 2. (a) The type II endorsement allows the retailer to conduct the following activities on the premises of the retailer’s tavern:

- (1) Sell pull tabs, punchboards, and tip boards.**
- (2) Conduct raffles in which the retailer retains the proceeds of the raffle drawing.**
- (3) Conduct winner-take-all drawings in which the retailer retains no portion of the amounts wagered.**

(b) The raffle and winner-take-all drawings shall be conducted in accordance with the following limitations:

- (1) Not more than one (1) daily drawing may be conducted each day.**
- (2) Not more than one (1) weekly drawing may be conducted each week.**
- (3) Not more than one (1) monthly drawing may be conducted each month.**

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(c) If a daily drawing does not result in the selection of a winner, or if the retailer does not conduct a daily drawing as intended due to an inadequate amount of players, the retailer may carry over the jackpot until a winner is determined. However, a retailer may not begin another daily drawing until a winner is selected for the carryover jackpot.

(d) An applicant for a Type II endorsement shall designate on the application a particular area in which the type II gambling operation will be conducted. The endorsement issued shall only be valid for that area described which must be wholly contained within the licensed premises covered by the retailer’s alcoholic beverage permit. Type II gambling games shall only be sold on the premises of the retailer’s tavern. The type II gambling games may not be sold in any area outside the retailer’s tavern even if the retailer’s licensed premises extends outside the building or the walls.

(e) The type II endorsement must be displayed prominently in the retailer’s tavern.

SECTION 3. (a) All fees must be paid at the time the application is submitted to the commission.

(b) The commission may collect outstanding permit fees resulting from underreported income from a type II gaming and related activities.

(c) A licensee shall notify the commission in writing if any information filed with the application changes in any way within thirty days of the change.

(d) A licensee shall report in writing changes made to the licensee’s management, directors, officers, or any other position that makes management decisions directly affecting the operation of the licensee’s type II gambling activity.

SECTION 4. (a) A manufacturer or distributor must be licensed under IC 4-32.2-3-4 to qualify for a type II manufacturer or distributor license. In order to sell any licensed supply to a retailer or distributor, a manufacturer or a distributor must hold a type II license issued by the commission. To obtain an annual license, a manufacturer or distributor must submit a written application on a form prescribed by the commission.

(b) The manufacturer's application shall include all information deemed appropriate by the commission, including, but not limited to, the following:

- (1) The name of the applicant and the address of the applicant's principal place of business.**
- (2) The address of each of the applicant's separate locations where licensed supplies are manufactured.**
- (3) The name and home address of all owners of the applicant's business if it is not a corporation and, if it is a corporation, the name and address of the following:**
 - (A) The officers of the corporation.**
 - (B) Each person owning at least ten percent (10%) of any class of stock of the corporation.**
- (4) The name, business address, and home address of the registered agent for service in Indiana if the applicant is a corporation not domiciled in Indiana.**
- (5) Whether the applicant or any person required to be named in the application is an owner, officer, director, or employee of any other entity that would be licensed under this rule.**
- (6) A full description of the type of licensed supply or related equipment that will be manufactured.**
- (7) The name of each state where the applicant has been licensed to manufacture, supply, or distribute type II gaming supplies or related equipment, the license numbers, the period of time licensed, and whether or not a license has ever been suspended, revoked, or voluntarily forfeited, and the reason for that action.**

(c) A distributor must purchase all type II gaming supplies to be used in type II gambling operation in Indiana from a licensed manufacturer or another licensed distributor. The distributor's application shall include the following information:

- (1) The full name and address of the applicant.**
- (2) The name and address of the following:**
 - (A) Each location operated by the distributor where type II gaming supplies are stored.**
 - (B) Each owner, if the applicant is not a corporation.**
 - (C) Each shareholder who owns at least ten percent (10%) of any class of stock.**
 - (D) The registered agent for service in Indiana, if it is a corporation not domiciled in Indiana.**
- (3) A full description of the type of licensed supply that will be distributed.**
- (4) The name of each state where the applicant has been a licensed distributor, the license number, the period of time licensed, and whether or not a license has ever been suspended or revoked, or voluntarily forfeited, and the reason for that action.**
- (5) The name and address of every manufacturer from which purchases are made to be distributed in Indiana.**

(g) An entity that both manufactures and distributes supplies, devices, or equipment to be used in type II gambling operation in Indiana must possess a manufacturer's license and a distributor's license.

SECTION 5. (a) All pull tabs manufactured or distributed for sale in Indiana must meet the "Standards on Pull tabs" adopted by the North American Gaming Regulators Association, October 12, 1991, as amended October 20, 1998, and amended December 12, 2005, which is incorporated by reference. Copies are available from the North American Gaming Regulators Association, 26 East Exchange Street, Suite 500, St. Paul, MN 55101 or <http://www.nagra.org>. If any provisions of the "Standards on Pull Tabs" conflicts with any provision of these rules, these rules shall take precedence.

(b) A serial number consisting of at least five (5) alpha characters or numeric characters, or both, must be printed on each type II game manufactured and sold.

(c) Manufacturers must the following standards when constructing punchboards:

(1) Manufacturers must design, construct, and manufacture punchboards to eliminate any patterns between punchboards or portions of punchboards from which a reasonable person could determine the location or approximate location of winning punches.

(2) Manufacturers must randomly distribute and mix winning punches among all other punches in the punchboard. To ensure no patterns exist, manufacturers must meet the following requirements:

(A) Mix the form or permanent number sheets before cutting.

(B) Thoroughly mix all strips after the strips have been crimped and before inserting them into the punchboards.

(C) When filling punchboards, change the process for filling each separate set to prevent any pattern between sets of punchboards.

(D) Include no more than eight punchboards from one set of boards in any case shipped to Indiana.

(3) Manufacturers must make serial numbers on punchboards non-sequential to ensure no pattern exists which would allow someone to track the boards through serial numbers.

(4) Manufacturers must:

(A) guarantee that all numbers or symbols listed as winners on the flare are present in the board; and

(B) seal all punchboards to prevent anyone from using any method, including light or markings, to discover the number or symbol on a punch before punching it out of the board; and

(C) not allow punchboards with taped sides, corners, or edges.

Manufacturers may place stickers on the back of the punchboards naming additional numbers or symbols they guarantee to be in the board. The additional numbers or symbols must not exceed five percent of the total punches in the board.

(d) Manufacturers must create at least one method of winner protection for each type II gambling game to allow retailers, gaming managers, commission, and other law enforcement personnel to distinguish opened winning pull tabs from non-winning, altered,

or forged pull tabs, or pull tabs from another deal. Manufacturers must consider the following factors when creating methods of winner protection:

- (1) Establish primary winner protection for each pull tab deals.
- (2) Use special numbers, colors, designs, ink, or any combination of these to create the primary winner protection.
- (3) Completely hide the protection from view and ensure it is undetectable before players open the pull tabs.
- (4) Provide a written explanation of each winner protection method to the commission, if requested. The written explanation must include details and pictures, diagrams, or samples necessary to thoroughly explain the method.
- (5) Notify the commission in writing of any changes to protection schemes.
- (6) Use winner protection to identify winning pull tabs after they have been purchased and opened and distinguish them from non-winning pull tabs.

SECTION 6. (a) No individual shall provide any information or engage in any conduct that alters or is intended to alter the outcome of any type II gambling game.

(b) Manufacturers, distributors, retailers, and gaming managers must not possess, display, sell, or otherwise furnish a pull tab deal when they know, or reasonably should know, that:

- (1) the location, or approximate location, of any of the winning pull tabs can be determined in advance of opening by:**
 - (A) any pattern in the manufacture, assembly, or packaging of the tabs; or**
 - (B) any markings on the tabs or container; or**
 - (C) the use of a light; or**
- (2) the winning tabs have not been distributed and mixed among all other tabs in the deal.**

(c) Manufacturers, distributors, and manufacturer and distributor representatives may sell or distribute type II gambling game or licensed supplies only to other distributor, distributor representative, or retailer.

(d) Distributor and distributor representatives must buy type II gambling game and licensed supplies only from other licensed manufacturer, distributor, or distributor representatives.

(e) Manufacturers may not sell any type II gambling game unless the winning punches or pull tabs are randomly distributed and mixed among all other punches or pull tabs in that board or deal.

(f) Manufacturers, distributors, and manufacturer and distributor representatives must not make sales promotion statements, demonstrations, or other representations that indicate or imply:

- (1) one portion of a pull tab deal contains more winners than other portions; or**
- (2) gaming managers can sell pull tabs in some manner that would give the gaming manager an advantage in selling more pull tabs before having to pay out winners.**

SECTION 7. (a) Pull tabs shall not be sold in Indiana unless a flare accompanies the

deal.

(b) A retailer shall not sell a Type II gambling game for more than one dollar (\$1).

(c) No retailer shall conduct any event in which the winner of a prize is determined, in whole or in part, on a sporting event.

(d) No retailer shall conduct any Type II gambling operation on or through the Internet.

(e) A retailer shall only purchase type II gambling games or licensed supply from a licensed manufacturer or distributor.

(f) A retailer must place a flare in close proximity to where the tickets for that flare are sold.

(g) A retailer must thoroughly mix pull tabs and tip boards prior to offering them for sale to the public.

(h) A retailer may not purchase and a distributor may not sell a box of type II gambling games if the manufacturer's shrink-wrap is removed or the manufacturer's seal is broken.

(i) A retailer may not sell Type II gambling games from the original packing box or container.

(j) A retailer may not extend credit to any player.

SECTION 8. (a) A person shall not play or participate in any manner in a type II gambling gaming at a tavern he or she owns, manages, or operates.

(b) A person employed by the retailer shall not play or participate in any manner in a type II game at the retailer's tavern.

SECTION 9. (a) The retailer may establish its house rules governing its type II gambling operation. At a minimum, the house rules shall contain all of the following information:

- (1) the retailer's name;**
- (2) the Indiana alcoholic beverage permit number;**
- (3) the time limit for the redemption of type II gambling game, which shall be not less than one (1) day from the date the last game of the deal is sold; and**
- (4) the effective date of the house rules.**

(b) The retailer shall post the house rules in a prominent place of the retailer's tavern or print the house rules in sufficient number for distribution to all interested persons.

(c) The house rules shall not be conflict with Indiana alcoholic beverage laws and rules.

SECTION 10. (a) A type II gambling game shall be redeemed only by the retailer that sold the winning game.

(b) A type II gambling game must be redeemed not less than one (1) day from the date the last ticket of the deal is sold or within the time limit posted for redeeming winning tickets in accordance with the retailer's house rules.

(c) A retailer shall permanently deface each winning type II gambling game within twenty-four (24) hours after the ticket is presented for payment.

(d) A player shall not be paid any cash or prize unless the player redeems an actual winning ticket.

(e) When a player wins more than fifty dollars (\$50) or a merchandise prize with a retail value over fifty dollars (\$50), the gaming manager must make a record by:

(1) having the winner print his or her name and date of birth, in ink, on the side of the winning punch or tab opposite the winning symbol(s); and

(2) verifying the winner's identity and recording the current date and initialing the winning punch or tab; or

(3) recording the required information on a sheet of paper at least three inches by five inches and stapling the winning tab or punch to the paper if the pull tab or punch is constructed or printed so that recording the information required in a legible manner is not possible.

(f) When a player wins more than fifty dollars (\$50) or a merchandise prize with a retail value over fifty dollars (\$50), a type II gambling game winner must provide his name, date of birth, and proof of identification to redeem a prize.

SECTION 11. (a) The total amount that may be won in any daily, weekly or monthly raffle or winner-take-all drawing, may not exceed three hundred dollars (\$300). A retailer shall not award any prize money or any merchandise valued in excess of three hundred dollars (\$300).

(b) A retailer must conspicuously display the following information concerning each raffle or winner-take-all drawing:

(1) The price of a ticket.

(2) The time of the drawing.

(3) The description and value of the prizes awarded in the drawing.

(4) The manner in which a prize may be claimed.

SECTION 12. (a) A retailer may place, display, or maintain or cause to be placed, displayed or maintained a sign, banners or pennants advertising type II game or related activities only inside the retailer's tavern.

(b) A retailer may not directly or indirectly place, display, or maintain or cause to be placed, displayed, or maintained a sign, banners or pennants advertising type II game or related activities in following places:

(1) The public places of the licensed premises in which a minor may be present under IC 7.1- 5-7-11(a)(16).

(2) The exterior parts of the permit premises including, but not limited to, the wall or the roof of a building and parking facility.

SECTION 13. (a) The licensee may dispose of any unused type II gambling games and any other licensed supplies specified by the commission by shredding, burning, or otherwise destroying them. The licensee must notify the commission that such items are to be destroyed thirty (30) days in advance of the destruction, and must provide the following information:

- (1) The date the items were destroyed.**
- (2) The manner of destruction.**
- (3) A description of the items destroyed.**
- (4) The quantity of items destroyed.**
- (5) The serial numbers of the items destroyed.**
- (6) The trade name of the items.**
- (7) The reason for destruction.**

Destruction of any unused licensed supplies must be certified by the licensee.

(b) If an organization has lost any licensed supplies through theft, fire, flood, or other disaster, the organization must notify the commission in writing of such loss and provide the following information within ten (10) days of discovering the loss:

- (1) The date the items were lost.**
- (2) The manner of loss and a description of the items lost.**
- (3) The serial numbers of the items lost.**
- (4) The trade name of the items.**
- (5) Copies of all insurance forms submitted for the loss.**
- (6) Any police department or fire department reports created in connection to the loss.**
- (7) Any other information required by the commission or the executive director.**

SECTION 14. (a) A retailer must maintain adequate records of all financial aspects of type II gaming for the commission to conduct oversight as authorized by IC 4-36 and to report such information to the commission on forms prescribed by the commission. A retailer must set up a separate and segregated bank account to account for all proceeds and expenditures of type II gaming. A retailer shall not commingle receipts from the retailer's type II gambling operation with the receipts of the retailer's alcoholic beverage sales, food sales, and other related non-gambling activities. All expenditures related to type II gambling operation must be made by check or verifiable electronic transfer from the separate and segregated bank account created for type II gaming.

(b) A retailer shall retain the following records for a minimum of four (4) years from the date each game is removed from play or each document is generated, as applicable:

- (1) All type II gambling games removed from play, including:**
 - (A) all prize flares;**
 - (B) all unplayed tabs;**
 - (C) all winning punches or tabs; and**
 - (D) all winning and unplayed raffle and winner-take-all game tickets;**
- (2) all documents associated with type II gaming; and**

(3) all other documents kept in the regular course of type II gambling operation.

(c) Retailers shall make its type II gambling operation records available on the licensed premises for the commission, law enforcement, or the department of revenue to inspect. The commission shall be granted unrestricted access to all records related to type II gambling operation.

(d) All type II gambling operation records from the preceding six (6) calendar months shall be maintained on the licensed premises. Any type II gambling operation record over six (6) months old may be retained on the licensed premises or off premises in a storage facility approved by the commission. If stored off premises, a retailer must produce the type II gambling operation record for inspection at the licensed premises on demand within 48 hours.

(e) The retailer shall submit financial reports to the commission on forms prescribed by the commission. The information that must be submitted includes, but is not limited to, the following:

- (1) Gross receipts from each type of gaming activity conducted at the retailer's tavern;**
- (2) Prize payouts.**
- (3) Net receipts to the retailer.**

(f) The appropriate financial forms referenced in subsection (e) must be provided quarterly, not later than January 15, April 15, July 15, and October 15 during the first year of the type II gambling operation. A retailer may submit forms referenced in subsection (e) annually thereafter.

(g) A retailer must prepare a detailed monthly income summary for type II gambling games removed from play in the format the commission requires either manually or electronically. A retailer may store monthly records of type II gambling games electronically if the retailer meets all of these requirements:

- (1) Retain all original input control documents supporting the electronic record; and**
- (2) Generate a monthly paper income summary that organizes the electronic record into the format the commission requires.**
- (3) Ensure that the income summary:**
 - (A) Does not hinder the commission's view of records; and**
 - (B) Is available for review no later than thirty (30) days following the end of the month; and**
 - (C) Is available within three days of a request by the commission, law enforcement, or the department of revenue.**

(h) When preparing the retailer's monthly income summary, a retailer must determine cash over or cash short on a form prescribed by the commission.

(i) A retailer conducting raffles or winner-take-all games shall have a record-keeping procedure to account for cash receipts, cash disbursements and raffle tickets purchased or sold and prizes awarded. The record keeping procedure must include the following:

- (1) Invoices for the purchase of raffle cards or licensed supplies, which must reflect**

the following information:

- (A) Name and address of supplier;**
 - (B) Name of purchaser;**
 - (C) Date of purchase;**
 - (D) Invoice price for each deal;**
 - (E) Form number and name of card;**
 - (F) Serial numbers;**
 - (G) Quantity purchased; and**
 - (H) Sales of price of cards.**
- (2) A record of cash receipts from raffle ticket sales by tracking the total number of tickets available for sale, the number issued to sellers, the number returned, the number sold and reconciliation of all raffle sales to receipts.**
- (3) Receipts for all raffle prizes;**

SECTION 15. (a) A manufacturer or a distributor must keep records adequate for the commission to conduct oversight as authorized by IC 4-36 and to report such information to the commission on forms prescribed by the commission. The records required must include, but are not limited to, the following:

- (1) A general sales invoice that:**
 - (A) is:**
 - (i) numbered consecutively; and**
 - (ii) prepared in at least two (2) parts, one (1) being issued to the customer and the other retained in an invoice file; and**
 - (B) sets out:**
 - (i) the date of sale;**
 - (ii) the customer name and business address;**
 - (iii) a full description of each licensed supply sold, including the serial numbers of the licensed supply sold;**
 - (iv) the quantity and sales price of each licensed supply;**
 - (v) the manufacturer's or distributor's license number;**
 - (vi) the customer's license number; and**
 - (vii) the gaming card excise tax due on the sale.**
- (2) Credit memoranda prepared in the same manner as sales invoices.**
- (3) A sales journal containing at least the following, by calendar month:**
 - (A) The date of sale.**
 - (B) The invoice number of the sale.**
 - (C) The customer name or account number.**
 - (D) The total amount of the invoice.**
 - (E) The total amount of the gaming card excise tax due on the sale.**
- (4) A complete list of the persons representing the buyer and seller of licensed supplies.**
- (5) Purchase records documenting that all:**
 - (A) type II gambling games; and**
 - (B) licensed supplies;**

were purchased from a licensed manufacturer or distributor.
- (b) The serial number printed on licensed supply sold must be identifiable with the sales invoice reflecting the sale of the specific licensed supply.**
- (c) Records are required to be maintained until the later of the following:**

- (1) Six (6) years after the year in which they are created.**
 - (2) The end of the audit if such records are under audit.**
- (d) Marketing sheets that show the expected gross income, payout, net income, and number of deals in the pull tab game that have been sold to the qualified organization. "Payout" does not include the cost of the game itself.**
- (e) If a licensed manufacturer or distributor destroys, discontinues, or otherwise renders unusable licensed supplies sold in Indiana, then the manufacturer or distributor must provide the commission with a written list of the licensed supplies destroyed, including the following:**
 - (1) The quantity.**
 - (2) A description of the items.**
 - (3) Serial numbers.**
 - (4) The date on which the items were destroyed.**
- (f) A licensed manufacturer or distributor must keep the commission informed of the following:**
 - (1) Its location.**
 - (2) The location of all facilities where licensed supplies are manufactured or distributed.**
 - (3) Where the records will be stored if the manufacturer or distributor ceases business.**
- (g) The records referenced in subsections (a) through (f) must be produced upon request by the commission.**

SECTION 16. SECTION 1 through SECTION 15 will take effect on July 1, 2008.

SECTION 17. This document expires on September 28, 2008.